

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEB 25 1998

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In the Matter of)
)
Closed Captioning and Video Description)
of Video Programming)
)
Implementation of Section 305 of the)
Telecommunications Act of 1996)
)
Video Programming Accessibility)

MM Docket No. 95-176

COMMENTS OF DIRECTV, INC.

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Dated: February 25, 1998

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COMMENTS OF DIRECTV, INC.

DIRECTV, Inc. ("DIRECTV")¹ hereby submits the following comments in response to the Commission's Further Notice of Proposed Rulemaking ("Further Notice") in the above-captioned proceeding.

In its *Closed Captioning Order* implementing Section 713 of the Communications Act,² the Commission adopted comprehensive rules and timetables for the captioning of video programming. Although it noted that Congress had specifically found that captioning is generated most efficiently at the production stage,³ the Commission nonetheless placed the ultimate responsibility for compliance with captioning requirements on video programming

¹ DIRECTV is a wholly-owned subsidiary of DIRECTV Enterprises, Inc., a licensee in the DBS service and wholly-owned subsidiary of Hughes Electronics Corporation.

² *Closed Captioning and Video Description of Video Programming, Video Accessibility*, MM Docket No. 95-176, FCC 97-279 (rel. Aug. 22, 1997) ("*Closed Captioning Order*").

³ *Id.* at ¶ 28.

distributors. In so doing, the Commission did not expect distributors to supply captioning, but rather to include captioning requirements in contracts with program producers and owners.⁴

The *Further Notice* considers an issue left unresolved in the *Closed Captioning Order* -- the appropriate captioning requirements for emergency information. In both the *Closed Captioning Order* and the *Further Notice*, the Commission has expressed its concern that all viewers, including persons with hearing disabilities, have access to televised emergency information that could affect their safety and well-being.⁵

As the nation's foremost provider of direct broadcast satellite ("DBS") service, DIRECTV shares the Commission's concern, and continues to support the objective of making closed captioning programming available to as many of its hearing impaired subscribers as possible. DIRECTV reiterates that it intends to pass through all captioning information that it receives from programming suppliers.⁶ The facilities at DIRECTV's Castle Rock Broadcast Center have been designed specifically to accommodate the seamless pass-through of closed captioning included in line 21 of the Vertical Blanking Interval ("VBI").⁷

As the Commission decides upon the proper captioning requirements for emergency information, however, DIRECTV urges the Commission to be mindful of the

⁴ *Id.*

⁵ *Further Notice* at ¶ 7; *Closed Captioning Order* at ¶ 252.

⁶ See Comments of DIRECTV, MM Docket No. 95-176 (filed Feb. 28, 1997).

⁷ Closed captioning is hidden as data encoded within the VBI of the television signal. In 1976, the Commission adopted rules which provide that line 21 of the VBI is to be used primarily for the transmission of closed captioning. See *Captioning for the Deaf, Report and Order*, 63 FCC 2d 378 (1976).

inherently national configuration of DBS service. As a result of technological and regulatory constraints, DBS presently is an unsuitable vehicle to address local emergency considerations. With respect to emergency captioning, DIRECTV can do little more than insist, as a contractual matter, that to the extent emergency information is furnished on programs carried on DIRECTV, that program suppliers caption such emergency information in compliance with the Commission's rules.

I. THE COMMISSION SHOULD REQUIRE ONLY THE PASS-THROUGH OF CAPTIONED EMERGENCY INFORMATION, AND IN NO EVENT SHOULD MAKE NATIONAL SERVICE PROVIDERS RESPONSIBLE FOR SUPPLYING THE CAPTIONING OF EMERGENCY INFORMATION

The Commission inquires whether it is feasible to require video programming distributors, which has been defined expansively to encompass DBS operators,⁸ “to supply closed captions for emergency information programs.”⁹ “Emergency information” in turn is defined in the *Further Notice* as “state, local and regional emergency announcements or reports, including interruptions of regularly-scheduled programming and late-breaking reports during live news programs.”¹⁰ The Commission tentatively has concluded that “emergencies” falling within this definition should broadly encompass weather-related and other situations that affect the safety of viewers, including tornadoes, hurricanes, floods, earthquakes, icing conditions, heavy snows, widespread fires, toxic gas discharges, widespread power failures, civil disorders, and school closings.¹¹ Recognizing that these contemplated emergency scenarios typically entail live

⁸ See new 47 C.F.R. § 79.1(a)(2).

⁹ *Further Notice* at ¶ 9.

¹⁰ *Id.* at ¶ 3 (emphasis supplied).

¹¹ *Id.* at ¶ 8.

or up-to-the-minute breaking stories, the Commission questions the feasibility of requiring video program providers to supply real-time captioning at this time, in light of the current dearth of real-time captioning resources.

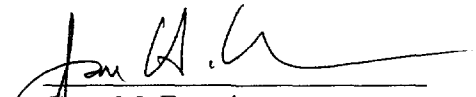
The most fundamental point that DIRECTV wishes to make in response to the *Further Notice* concerns the localized nature of emergency information. With respect to MVPDs such as DIRECTV whose primary focus is nationwide programming distribution, the Commission's emergency captioning inquiry for the most part is and should be *inapplicable* because such operators simply do not carry programming that features local emergency information -- captioned or uncaptioned. DIRECTV is an inherently nationwide service. DIRECTV does not offer satellite-delivered local television signals generally to its subscribers, and currently has no plans to do so. While DIRECTV certainly can -- and will -- pass through any captioned emergency information provided on the program channels carried on its system,¹² an affirmative obligation to *supply* captioned local emergency information would make no economic, technical or practical sense, given the national configuration of DIRECTV's DBS service.¹³

¹² DIRECTV carries national news services, such as CNN, which may feature emergency information from time to time. To the extent such information is captioned by the program providers, that captioned information will be transmitted to DIRECTV subscribers. DIRECTV also uplinks a handful of network affiliates for nationwide distribution pursuant to the satellite carrier compulsory copyright license. Again, any captioned emergency information transmitted on such broadcast stations would be retransmitted to DIRECTV subscribers across the country (although its relevance to subscribers residing in areas that are not geographically close to the uplinked network affiliate is somewhat questionable).

¹³ The Commission from the inception of DBS service has recognized that it is ideally suited "to serve large land areas." *DBS Notice of Proposed Policy Statement and Rulemaking*, 86 FCC 2d 719, 737 (1981). The service was authorized "as a *nonlocal*

As the Commission assesses the involvement of national service providers in its regulatory structure for promoting the closed captioning of localized emergency information, the most that it should ask is that nationwide providers such as DIRECTV insist, as a contractual matter, that programmers caption any emergency information they supply. Nationwide service providers can then pass through captions for emergency information to the extent that such information is displayed on the channels carried on their systems.

Respectfully submitted,



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service that would provide service on a national or regional basis.” *Implementation of Section 25 of the Cable Television Consumer Protections and Competition Act of 1992: Direct Broadcast Satellite Public Service Obligations*, MM Docket No. 93-25 (rel. Mar. 2, 1993), at ¶ 33 (emphasis supplied).